

Message Text

LIMITED OFFICIAL USE

PAGE 01 TOKYO 18099 220810Z

14

ACTION EB-07

INFO OCT-01 EUR-12 EA-07 ISO-00 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 L-03 EPA-01

CEQ-01 OES-03 PM-04 NSC-05 SP-02 SS-15 /070 W

----- 122449

R 220747Z DEC 75

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 5659

INFO AMCONSUL MONTREAL

LIMITED OFFICIAL USE TOKYO 18099

MONTREAL FOR US REP ICAO

E.O. 11652: N/A

TAGS: EAIR, JA

SUBJ: CIVAIR: NOISE LEVY - PAN AM AND NORTHWEST JOIN IN SUIT
AGAINST GOJ

REF: TOKYO 12054

1. ON DECEMBER 18, PAN AM AND NORTHWEST JOINED 26 OTHER INTERNATIONAL AIR CARRIERS IN FILING JOINT SUIT, IN TOKYO DISTRICT COURT, AGAINST GOJ NOISE LEVY. THE ONLY INTERNATIONAL CARRIERS NOT PARTICIPATING IN ACTION ARE JAL: ITS SUBSIDIARY, JAPAN ASIA AIRLINES; VARIG; AEROFLOT; PRC'S CAAC; AND FLYING TIGER LINE. FLYING TIGER HAS TOLD US DECISION NOT TO PARTICIPATE WAS MADE IN HOME OFFICE ON BASIS THAT SUIT CONSIDERED "UNWINNABLE" AND COURT ACTION EXPENSIVE

2. SUIT, FILED BY BLAKEMORE AND MITSUKI, ALLEGES THAT A) MINISTER OF TRANSPORT EXCEEDED HIS AUTHORITY IN ISSUING LEVY AS IT IS, IN FACT, A TAX RATHER THAN A FEE FOR "USE OF AIRPORTS AND FACILITIES;" B) IF LEVY IS WITHIN MINISTER'S AUTHORITY IT IS STILL "ARBITRARY AND IRRATIONAL" IN THAT IT INVOLVES "CROSS-SUBSIDY" TO OSAKA
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 TOKYO 18099 220810Z

(ATTORNEYS HANDLING CASE HAVE TOLD US THEY REGARD GOJ

ASSURANCE THAT MONEY WILL NOT BE CHanneled TO OSAKA AS "BOOKKEEPING TRICK"); C) LEVY VIOLATES ARTICLE 15 (2) B AND (3) AND ARTICLE 37 OF CHICAGO CONVENTION. SUIT DOES NOT INCLUDE ARGUMENT AGAINST AIRCRAFT WEIGHT BEING USED AS FACTOR IN DETERMINING AMOUNT OF LEVY: THIS ARGUMENT, FOR TIME BEING, IS BEING HELD IN RESERVE AS ARGUMENT AGAINST METHOD BY WHICH LEVY IS CALCULATED, SINCE IT CONCEDES TO SOME EXTENT, LEGITIMACY OF LEVY.

3. ALL CARRIERS HAVE NOW RECEIVED BILLING FROM JCAB, PAYABLE BY DEC. 27, COVERING MONTH OF SEPTEMBER. THOSE PARTICIPATING INSUIT HAVE DECIDED NOT RPT NOT TO PAY ASSESSED CHARGES. FTL IS APPARENTLY NOW MAKING DECISION AS TO WHETHER OR NOT IT WILL PAY.

4. ACCORDING TO LOCAL PRESS REPORTS JCAB DEPUTY DIR GEN MATSUMOTO, ON AFTERNOON DECEMBER 18, DEFENDED LEGALITY NOISE LEVY AS A "MODIFIED LANDING CHARGE". TO DATE, HOWEVER, GOJ HAS THREATENED NO SPECIFIC ACTION AGAINST CARRIERS. GROUP OF CARRIERS NOW INFORMALLY HEADED UP BY LUFTHANSA HANEDA REP WHO INDICATED THAT, ACCORDING TO ATTORNEYS, JCAB DOES NOT YET KNOW WHAT LEGAL STEPS, IF ANY, IT CAN TAKE TO FORCE PAYMENT. SUCH A DETERMINATION CAN BE MADE ONLY AFTER JCAB CONSULTATION WITH THE MINISTRY OF JUSTICE. SINCE BILLS DO NOT FALL DUE UNTIL DEC. 27, HOWEVER AND JAPANESE NEW YEAR HOLIDAYS ARE FAST APPROACHING, WHAT ACTION, IF ANY, THE GOJ WILL TAKE WILL PROBABLY NOT BE DECIDED UNTIL JANUARY.
HODGSON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LITIGATION, AIRCRAFT NOISE, LANDING TAXES
Control Number: n/a
Copy: SINGLE
Draft Date: 22 DEC 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975TOKYO18099
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750443-0870
From: TOKYO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751221/aaaaasae.tel
Line Count: 90
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 TOKYO 12054
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 07 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 MAY 2003 by BoyleJA>; APPROVED <07 MAY 2003 by MorefiRH>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: NOISE LEVY - PAN AM AND NORTHWEST JOIN IN SUIT AGAINST GOJ
TAGS: EAIR, JA, US, PANAM, NORTHWEST AIRLINES
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006